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Mark Pearson

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EXAMINER

BROWN, SHEREE N

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/731,916	<b>Applicant(s)</b> PEARSON ET AL.	
	<b>Examiner</b> HELENE ROSE	<b>Art Unit</b> 2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 97-99, 103-109, 112, 113 and 115-128 is/are pending in the application.
- 4a) Of the above claim(s) 1-96, 100-102, 110, 111 and 114 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 118, 119 and 123 is/are allowed.
- 6) ☒ Claim(s) 97-99, 103-109, 112, 113 and 115-128 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/15/2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **Detailed Action**

1. In response to communication filed on 11/19/2007, Claims 97-99, 103-109, 112-113, and 116-121 have been amended. Claims 1-96, 100-102, 110-111, and 114 have been cancelled. Claims 122-128 have been added. Therefore, Claims 97-99, 103-109, 112-113, and 115-128 are pending.
2. Claims 118-119 and 123 are allowed.
3. Applicant's arguments filed with respect to the rejected claims in view of the cited references have been considered but are moot in view of applicant's amended claims necessitate new ground(s) of rejection.

### **Information Disclosure Statement**

4. The information disclosure statement (IDS) submitted on 11/15/2007 was filed after the mailing date of the application on 12/10/2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### **Objections**

5. The amendment filed 11/19/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: in response to receiving a search query for a product, searching an index of articles that describe **retail products**.

Examiner could not locate the above anywhere in applicant specification where you are

able to search an index of articles that describe retail products. Applicant is advised to direct examiner to where the above limitations is located in the specification to overcome this rejection or applicant is required to cancel the new matter in the reply to this Office Action.

**Claim Rejections – 35 U.S.C – 102**

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 97, 103-105, 107-109, 113, 120-121 and 128 are rejected under 35 U.S.C. 102(e) as being anticipated by Horn et al. (US Patent No. 7,013,289, Date Filed: February 21, 2001, hereinafter Horn).

**Claims 97:**

Regarding Claim 97, Horn teaches a computer-implemented method for displaying information, **the method** comprising:

**in response to** receiving a search query for **a product, searching an index of articles that describe retail products** (column 42, lines 63-67, Horn);

determining, **based on the index searching**, that a first article **is responsive to** the search query, **the first article including price information for the product and one or more images of the product** (column 25, lines 23-31 and lines 40-45 and column 42, lines 63-67, wherein images and prices are displayed with the products, Horn);

**selecting a price for the product** from the first article (column 56, lines 58-61, wherein the buyer chooses to purchase at wholesale prices, Horn);

**selecting an image for the product** from the first article based on the **price** (column 43, lines 39-42, wherein manufacturer's URL for product thumbnail and wherein the hyperlink is clickable within the area of the thumbnail and wherein thumbnail is interpreted to be A small version of a photo or Image browsers commonly display thumbnails of photos several or even dozens at a time, Horn); and

displaying the **price and the image for the product** (column 42, lines 64-67, Horn).

Claim 103:

Regarding Claim 103, Horn teaches wherein **selecting the image for the product** comprises determining a price representation (column 13, lines 46-48, wherein manufacturer's build a worldwide brand name based on authentic products, ethical representation, fair prices, and good prices to buyers and column 20, lines 44-47, wherein

the manufacturer's locale currency used to calculate prices in other product record versions, is equivalent to determining a price representation, Horn).

Claim 104:

Regarding Claim 104, Horn teaches wherein **selecting the price for the product** comprises determining a font size **of the price** (column 21, lines 28-31, respectively, Horn).

Claim 105:

Regarding Claim 105, Horn teaches wherein **selecting the price for the product** comprises determining a font face **of the price** (column 21, lines 27-33, respectively, Horn).

Claim 107:

Regarding Claim 106, Horn teaches wherein **selecting the price for the product** comprises determining a word following **the price** (column 36, lines 34-38, wherein the global store calculates total cost including shipping and displays the total cost, wherein this is interpreted to correspond with applicants specification, paragraph [0033], wherein some words immediately preceding a potential price can indicate rebate and shipping, Horn).

Claim 108:

Regarding Claim 108, Horn teaches wherein **selecting the image for the product based on the price** comprises determining global information associated with the **product** (column 26, lines 15-26, respectively, Horn).

Claim 109:

Regarding Claim 109, Horn teaches wherein determining global information associated with the **product** comprises one selected from the group consisting of:

determining **a** number of documents from a source associated with the first article, determining **a** frequency of occurrence of **the image for the product** on a network, and determining **a** size of **the image** (column 43, lines 32-41, wherein the images and size is associated with product and column 46, lines 44-50, wherein the invention accommodates a many to many relationship between products and categories; a product among many products to be related to more than one category among many categories and the use of this table when joined with the product table facilitates selection of all products in a category that are requested to be displayed, which is interpreted to be equivalent to determining a number of documents from a source associated with the first article and frequency of occurrence of the image for the product, wherein column 42, lines 65-67, all products are displayed with images and descriptions, and so forth, Horn).

Claim 113:

Regarding Claim 113, Horn teaches wherein **selecting image for the product base on the price further** comprises determining a number of occurrences value

associated with **the image for the product** (column 42, lines 65-67, wherein a number of products are displayed in the webpage, listing their descriptions, images, and prices, wherein this is interpreted to be equivalent to a number of occurrences associated with the image for the product, wherein an number of products are displayed, Horn).

Claim 120:

Regarding Claims 120 and 121, Horn teaches a computer program product for displaying information about **a product** from **an article, the method**, comprising:

a computer-readable medium (Figure 1, all features, wherein hardware and software are used for buyers and referral websites and column 29, lines 14-21, respectively, Horn); and

computer program code, encoded on the medium (column 35, lines 46-49, respectively, Horn), for:

in response to receiving a search query for a product, searching an index of articles that describe retail products (See Claim 97, wherein this limitation is rejected under the same rationale, Horn);

**determining, based on the index searching, that a first article is responsive to the search query, the first article including a price information for the product and one or more images of the product** (See Claim 97, wherein this limitation is rejected under the same rationale, Horn);

**selecting a price for the product** from the first article (See Claim 97, wherein this limitation is rejected under the same rationale, Horn);



**selecting an image for the product** from the first article based on the **price** (See Claim 97, wherein this limitation is rejected under the same rationale, Horn); and

displaying the **price and the image for the product** (See Claim 97, wherein this limitation is rejected under the same rationale, Horn).

Claim 121:

Regarding Claim 121, Horn teaches a computer-implemented system for displaying information about **a product** from an shopping article, **the method**, comprising:

means for **searching an index of articles that describe retail products in response to** receiving a search query for **a product** (See Claim 97, wherein this limitation is rejected under the same rationale, Horn); and

means for **determining, based on the index searching, that** a first article is **responsive to** the search query, **the first article including price information for the product and one or more images of the product** (See Claim 97, wherein this limitation is rejected under the same rationale, Horn);

means for **selecting a price for the product** from the first article (See Claim 97, wherein this limitation is rejected under the same rationale, Horn);

means for **selecting an image for the product** from the first article based on the **price** (See Claim 97, wherein this limitation is rejected under the same rationale, Horn);  
and

means for displaying the **price and the image for the product** (See Claim 97, wherein this limitation is rejected under the same rationale, Horn).

Claim 128:

Regarding Claim 128, Horn teaches determining, based on the index searching, that a second article is responsive to the search query, the second article including price information for the product and one or more images of the product (see claim 97, wherein this limitation is substantially the same and therefore rejected under the same rationale, Horn);

selecting a second price for the product from the second article (see claim 97, wherein this limitation is substantially the same and therefore rejected under the same rationale, Horn);

selecting a second image for the product from the second article based on the second price (see claim 97, wherein this limitation is substantially the same and therefore rejected under the same rationale, Horn); and

displaying the best second price and the best second image for the product from the second document (see claim 97, wherein this limitation is substantially the same and therefore rejected under the same rationale, Horn).

### Claim Rejections – 35 U.S.C – 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 98-99, 106, 115-117, 122, and 124-127 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aggarwal et al. (US Patent No. 6,728,706, Date Filed: March 23, 2001, hereinafter Aggarwal) in view of Venkatraman et al. (WO/0113273, Date Filed: February 22, 2001, hereinafter Venkatraman)

#### Claim 98:

Regarding Claim 98, Aggarwal teaches wherein **selecting the image for the product based on the price** comprises determining a distance between the **price for the product** and the **image for the product** (column 8, lines 9-14, wherein different similarity functions can be used for numeric, nominal and images features wherein different similarity functions are used for nominal and non-nominal attributes, wherein these similarity scores are combined to give a similarity score between the two products, which is interpreted to be equivalent to “determining a distance between the price for the product and the image for the product”, Aggarwal).

Claim 99:

Regarding Claim 99, Aggarwal teaches **selecting the image for the product** comprises determining a **distance** between **the price for the product and a term of the search query, and the image for the product** and **the** term of the search query (column 9, lines 20-33, wherein the system uses the category of the products in which the shopper is interested and extracts the corresponding features from the image of the product if one was submitted by the shopper and once the query point is determined, the goal of the system is to search for points in the feature space that are near this query point, a problem referred to as searching for K-nearest neighbours 340, which is interpreted to be equivalent to “determining a distance between the price for the product and a term of the search query, and the image for the product and the term of the search query”, Aggrawal).

Claim 106:

Regarding Claim 107, Aggarwal does not specifically define nor teach wherein selecting the price for the product comprises determining a word preceding the price. On the other hand, Venkatraman teaches wherein **selecting the price for the product** comprises determining a word preceding **the price** (Figure 2B, all features, wherein words such as list price, our price, and you save is preceding the price listed, Venkatraman).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to incorporate an additional feature that involved determining a word preceding the price as disclosed by Venkatraman within Aggrawal system for the purpose of

providing relevant search results to a user that displays the best possible offer or price for that particular product. .

Claim 115:

Regarding Claim 115, the combination of Aggarwal and Venkatraman teaches wherein **selecting the image for the product based on the price** comprises determining a number of words between **the price for the product, the image for the product** and a term of the search query (see claim 98, wherein this limitation is substantially the same and therefore rejected under the same rationale, Aggarwal).

Claim 116:

Regarding Claim 116, the combination of Aggarwal and Venkatraman teaches wherein the first article has a tree structure (column 8, lines 36-39, Aggarwal).

Claim 117:

Regarding Claim 117, the combination of Aggarwal and Venkatraman teaches wherein **selecting the image for the product based on the price** comprises:

determining a closest common ancestor to **the price for the product** and a term of the search query (See claim 99, wherein this limitation is substantially the same and therefore rejected under the same rationale, Aggarwal);

determining the distance from the closest common ancestor to the **image** (See claim 99, wherein this limitation is substantially the same and therefore rejected under the same rationale, Aggarwal); and

determining the distance from the closest common ancestor to the term of the search query (See claim 99, wherein this limitation is substantially the same and therefore rejected under the same rationale, Aggarwal ).

Claim 122:

Regarding Claim 122, the combination of Aggarwal and Venkatraman teaches wherein selecting the price for the product from the first article comprises determining a best price from among the prices selected from the first article column 6, line 37-3, wherein numeric attributes extracted from the product image are used together with other attributes during the similarity search for product and column 9, lines 11-12, wherein determination of attribute values corresponding to the shoppers requirement and wherein attribute value is interpreted to be price, which is interpreted to be equivalent to "wherein the best price is a price most likely to be correctly associated with the product", Aggarwal), and wherein selecting an image for the product from the first article based on the price comprises determining a best image from among the images selected from the first article (column 7, lines 20-22, wherein the system extracts image features from the product image based on the category to which the product belongs, Aggarwal).

Claim 124:

Regarding Claim 124, the combination of Aggarwal and Venkatraman teaches wherein the ranking ranks based on the distance between each image and each price selected for the product (column 6, lines 30-37, wherein existing product catalogs in commerce systems store product images along with the textual description and these

images are shown to the shopper on request, but the images are not used during product searching but the described embodiment uses the product image together with numeric and nominal product attributes to capture the information available in the visual appearance of the product, Aggarwal).

Claim 125:

Regarding Claim 125, the combination of Aggarwal and Venkatraman teaches wherein ranking ranks the price based on a price representation score of each price selected for the product (column 6, lines 1-9 and column 6, lines 33-39, respectively, Aggarwal).

Claim 126:

Regarding Claim 126, the combination of Aggarwal and Venkatraman teaches wherein the best price is a price most likely to be correctly associated with the product (column 6, line 37-3, wherein numeric attributes extracted from the product image are used together with other attributes during the similarity search for product and column 9, lines 11-12, wherein determination of attribute values corresponding to the shoppers requirement and wherein attribute value is interpreted to be price, which is interpreted to be equivalent to "wherein the best price is a price most likely to be correctly associated with the product", Aggarwal).

Claim 127:

Regarding Claim 127, the combination of Aggarwal and Venkatraman teaches wherein the best image is an image most likely to be correctly associated with the product

(column 7, lines 20-22, wherein the system extracts image features from the product image based on the category to which the product belongs, wherein this is interpreted to correspond to the best image being associated with the product, Aggarwal).

### **Allowable Subject Matter**

10. Claims 118, 119, and 123 are allowed over prior art of record.

### **Examiner's Response to Arguments**

#### Applicant Argues:

- 1) Applicant argues that the applied references failed to show at least the limitation of "selecting an image for the product from the first article based on the price".
- 2) Applicant argues that the prior art of record Venkatraman fails to disclose "selecting an image for a product from a first article based on the price".
- 3) Applicant further argues that the prior art of record Williams does not remedy the deficiencies of Bailey or Venkatraman.

#### Examiner Response:

Examiner is not persuaded. In response to applicant arguments 1, 2, and 3 above, applicant argues amended claims in which the argued claim language was not presented within the first office action on merits. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *selecting an image for a product from a first article based on the price*) are not recited in the rejected claim(s). Although the claims



are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, applicant arguments filed, with respect to the rejected claims in view of the cited references have been considered but are moot in view of applicant's amended claims necessitate new ground(s) of rejection.

#### **Prior Art of Record**

1. Venkatraman et al (WO0113273)
2. Bailey et al (US Patent No. 6,785,671)
3. Williams et al (US Publication No. 2002/0032612)
4. Aggarwal et al. (US Patent No. 6,728,706)
5. Horn et al (US Patent No. 7,013,289)

#### **Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helene Rose whose telephone number is (571) 272-0749.

The examiner can normally be reached on 8:00am - 4:30pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Helene Rose  
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March 3, 2008

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